

REMARKS

Included in this Response is a Request for Continued Examination, and the appropriate fee therefor.

This Response is submitted in reply to the Final Office Action mailed on December 12, 2007. Claims 1-30 are pending in this application. Claims 1, 11, and 22 are hereby amended. No new matter has been added by any of the amendments made herein.

The Abstract stands objected to as being too long. Appropriate amendment is hereby made, and it is believed that the Abstract now stands below the 150 word maximum.

Claim 22 is objected to on a grammatical basis, and appropriate amendment has been made.

In the Office Action, claims 1-6, 91-3, and 17-21 are rejected as being obvious over "Indicare – On-line Patient Assistance Program Website Users Manual," herein after "Indicare" in view of U.S.P.N. 4,491,725, to Pritchard. Claims 7-8, 14-16, and 22-28 are rejected as obvious over Indicare, Pritchard, and U.S.P.N. 4,975,840, to DeTore, et al. Applicants respectfully submit that the rejections have been overcome or are improper for the reasons set forth below. Accordingly, Applicants respectfully request reconsideration of the patentability of claims 1-30.

As an initial point, the Office Action statements regarding the teachings of Indicare are vastly overstated and, quite simply, wrong. Indicare is a computer manual for assisting medical facility personnel or the like use a computer application. Essentially, the application is an interface with a database that allows a user to log into the system and determine whether a specific drug or pharmaceutical is subject to a patient assistance program, loosely termed for the sake of argument. If there is an assistance program, the computer application either a) provides a

form from the database or b) indicates that there is an assistance program but no form can be provided from the database. With respect to the claimed invention of the present application, Indicare does nothing more.

To be clear, Indicare has other features, but such are irrelevant to the claimed invention. For instance, the computer application creates a record of whom the patient is and other information. In the end, the patient record servers no purpose other than a local purpose to the hospital or pharmacy. There is no suggestion or teaching of analyzing the information collected, and there is no teaching that the computer even generates a completed application, regardless of whether that completed application is for electronic submission or for hard copy printing and mailing. The system is designed to support a pharmacy's efforts to recoup drugs that are given away for free: from a patient's perspective, the system provides no benefit over using the Internet to do a search for their drug and a logic expression such as "patient assistance" or "free" or "indigent," as examples.

Amended claim 1 makes an initial determination, and, if the first determination is satisfied, a second determination. In comparison to Indicare, there is no analysis or determination; to be clear, there is nothing in Indicare that indicates any "determination" is made other than whether the drug is listed in the database for reimbursement, and nothing to suggest that any other information that may be requested is used for any purpose related to qualifications for an assistance program or applying for an assistance program. In order to find the claim limitations taught or suggested or otherwise made obvious by Indicare, the claimed "the initial patient information" would have to be the existence of a person having a name, and the claimed "initial determination" would be based on the person's presence in front of the Indicare user or pharmacy personnel. Furthermore, as the only other required information is the name of the

drug, such must be the “additional patient information,” and the second determination would be whether a program for drug reimbursement exists for such drug. While such is an absurd suggestion in itself, it should also be noted that the drug information is not “patient information.” All of the “patient information” is information related to the person, such as “medical condition,” but not treatment information, though it is recognized that the two are related. For instance, pregnancy may be “condition,” while qualifying for an assistance program as contemplated by the present invention is not determined by what a physician believe a course of treatment for a pregnant woman should be (such as drugs to stabilize a pregnancy).

To summarize, to the extent any “determination” is made by the cited references, such only relies on “drug” not on any “patient information.”

Additionally, no combination of the cited references teaches a computer-implemented method, as claimed in claim 1, to perform the step of “at least one of submitting a completed application to the assistance program and providing a copy of the completed application for submission to the assistance program.” Indicare simply creates a proprietary record of information, stored in its local database, and provides a separate form where one is available that can then be filled out in a traditional manner, and none of the other references of record teach such a system.

Claim 13 is also a computer-implemented method in which initial “patient” information is collected, the information is compared to “well-established criteria,” collecting additional “patient” information if the criteria are satisfied, and making a second comparison to eligibility requirements, both comparisons being specific to Medicaid, and providing an application if the eligibility requirements are satisfied. As stated above, Indicare makes no such determinations other than presence of a program for a drug. While Pritchard makes mention of submitting

claims to insurance carriers and to Medicaid, such is much different than the claimed invention: for insurance carriers and Medicaid, the patient is already enrolled in the program. The present invention identifies programs that may provide assistance based on “patient information,” while Pritchard relies on programs that are already known to the patient because the patient is already an enrollee. Therefore, any “determination” possible by Pritchard is not whether it is “likely that benefits can be obtained,” as required by claim 13 as well as claims 1 and 22, instead the determination is to whom to send a claim.

Claim 22 generally incorporates many if not all of the points discussed above, but also describes determinations for first and second assistance programs. The present invention contemplates a computer-implemented method in which the initial patient information is screen or sorted against a plurality of assistance programs. Claim 22 makes this explicit. In contrast, Indicare screens to see if a particular drug is supported by a reimbursement program to recoup free giveaways, and Pritchard simply submits claims for patients that are already enrolled in specific assistance programs (such as insurance or Medicaid).

In light of the above, Applicants respectfully submit that the cited references do not, either singly or in any combination, make obvious the limitations of any of the independent claims 1, 13, and 22, as amended. Therefore, each of these claims and their dependent claims is believed to be patentably distinguished and in condition for allowance.

Accordingly, Applicants respectfully request a timely Notice of Allowance be issued in this case.

If any other fees are due in connection with this application, the Patent Office is authorized to deduct the fees from Deposit Account No. 19-1351. If such withdrawal is made, please indicate the attorney docket number (54679-000003) on the account statement.

Respectfully submitted,

Seyfarth Shaw LLP
Attorneys for Assignee
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
312-460-5000

By



Brian S. Clise

Reg. No. 47,497